

1 IN THE UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

4 HENRY L. WILLIAMS, : **COPY**
5 : :
6 Plaintiff, :
7 : :
8 vs. : CASE NO. C-1-02-533
9 : :
10 MILTON CAN COMPANY, INC., :
11 and BWAY MANUFACTURING, :
12 INC., :
13 : :
14 Defendants. :
15 - - -

16 Deposition of HENRY L. WILLIAMS, a witness
17 herein, taken by the defendants as upon
18 cross-examination pursuant to the Ohio Rules of
19 Civil Procedure, and pursuant to notice and
20 stipulations hereinafter set forth, at the
21 offices of Casper & Casper, 119 East Court
22 Street, Cincinnati, Ohio, at 10:00 a.m., on
23 Thursday, October 30th, 2003, before Kelly Green,
24 RPR, a Notary Public within and for the State of
Ohio.

25 - - -
26 On-Time Reporting
27 8739 Landen Drive
28 Maineville, Ohio 45039
29 (513) 677-6188

EXHIBIT

A

tabbies®

1

APPEARANCES:

2

On behalf of the Plaintiff:

3

WILL ALLEN, ESQ.
Casper & Casper
Gas & Electric Building
One North Main Street
P.O. Box 510
Middletown, Ohio 45011

7

On behalf of the Defendants:

8

DAVID BLACK, ESQ.
Dinsmore & Shohl
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202

11

12

13

- - -

14

15

16

17

18

19

20

21

22

23

24

1 A. Okay.

2 Q. Can you tell me about your
3 employment history, starting with the first place
4 that you worked full-time?

5 A. First place I worked was Dunham
6 Hospital.

7 Q. How do you spell that for me?

8 A. Dunham, D-U-N-O -- I mean N-O-T or
9 something. Dunham Hospital. That's what it was.

10 Q. And what did you do there?

11 A. I worked in the storeroom.

12 Q. How long did you work there?

13 A. I worked there for about three
14 years. I quit that job, more or less -- I met
15 the Heekins, and they -- it was -- I met them at
16 a banquet, and they offered me a job, more or
17 less, and I went to work for them in 1969.

18 Q. So your first job after high school
19 -- your first full-time job was working at the
20 hospital in the storeroom?

21 A. Right.

22 Q. And then you met the Heekins at a
23 banquet, and they offered you a job, and you
24 started working at the Heekin...

1 A. Downtown plant. I worked downtown
2 for about three -- two months in '99, and then
3 they --

4 Q. In 1969?

5 A. '69. Then they told me I wasn't
6 supposed to be there. I was supposed to be at
7 the plant in Newtown.

8 Q. And were you eventually moved to the
9 plant in Newtown?

10 A. Yes. I went to Newtown, and I
11 started work out there.

12 Q. The first couple months you worked
13 at the downtown plant, what did they have you
14 doing down there?

15 A. I worked at hand assembly.

16 Q. What were you supposed to do in hand
17 assembly?

18 A. Well, just mainly worked on large
19 cans and coolers.

20 Q. What was your job; what were you
21 supposed to do; do you recall?

22 A. Well, I done things like put the
23 cans together as well as stack the cans and stuff
24 like that and put them on an elevator, and it was

1 A. I went to the coil room.

2 Q. What did you do in the coil room?

3 A. I was operator.

4 Q. Now, was driving a forklift part of
5 your job as the coil room operator?

6 A. Yes.

7 Q. What did you do after the coil room?

8 A. That was a job I was doing when I
9 got hurt.

10 Q. Let's talk now about the employment
11 that you had in the coil room. Was that known by
12 any other names; was there like a department name
13 for that?

14 A. No, just coil room.

15 Q. And in 2000, the year of your
16 accident, who was your supervisor in the coil
17 room?

18 A. They got another guy from Chicago.
19 Me and him didn't get along too well, it seemed.
20 I didn't know the man that well. All I used to
21 call him was Ell. I couldn't say his last name.
22 We just called him Ell.

23 Q. What shift were you on while you
24 worked in the coil room; did you have a certain

1 A. I'm just saying, you know, since you
2 got the -- you showed that on that record thing.

3 Q. What?

4 MR. ALLEN: Anything you know about.

5 A. No.

6 Q. Let's talk the day of the accident.
7 I understand that that wasn't a typical day for
8 you, correct?

9 A. No, it wasn't.

10 Q. That was an inventory day?

11 A. Ralph asked me would I come in and
12 work.

13 Q. This is Ralph Briggs?

14 A. Yes.

15 Q. What was his position at the time?

16 A. I think Ralph was a general foreman.

17 Q. Now, was he over Luther Smith, if
18 you know, or what was his relationship to Luther
19 Smith?

20 A. At the time, Luther was over there
21 with him and got Ell -- his name was Ell. His
22 name was something else, but I called him Ell.

23 Q. So Ell was your supervisor at the
24 time in the coil room?

1 A. Yes.

2 Q. What relation to Ralph Briggs was
3 Ell; was he above Ell or equal to Ell?

4 A. He was just -- he wasn't -- he had
5 just got there really when they took Luther over
6 there on the other side.

7 Q. So Luther went over and worked for
8 Ralph?

9 A. Right.

10 Q. And Ralph, you said, was a general
11 foreman?

12 A. Yes.

13 Q. And when did he ask you to work
14 inventory day?

15 A. When did he ask me?

16 Q. When did he ask you?

17 A. When did he ask me? He asked me
18 that Friday would I come in and work on inventory
19 with him, and I said okay.

20 Q. Had you worked inventory the day
21 before?

22 A. I worked inventory about four or
23 five times.

24 Q. What is inventory day; what is that

1 for people who wouldn't know?

2 A. For people that wouldn't know, you
3 would count the loads, and more or less add --
4 you know, get everything up in line as far as
5 taxes. They would -- everything, I guess, would
6 go on inventory for that day, like the trucks as
7 well as the machinery and the parts and stuff
8 like that, you know.

9 Q. So inventory day, if I understand
10 correctly, is where the employees would go
11 around and they would take a count of all the
12 supply?

13 A. All the supply.

14 Q. All the finished goods?

15 A. Right.

16 Q. All the equipment?

17 A. Right.

18 Q. All the trucks; everything in the
19 plant?

20 A. Right.

21 Q. What goes on on inventory day; what
22 do people do there?

23 A. Well, they -- you got people that
24 works in about three different areas -- four

1 Q. -- on regular days?

2 A. Right.

3 Q. There may be more pedestrian
4 activity around the plant?

5 A. Right.

6 Q. With people going around and
7 counting?

8 A. Right.

9 Q. And most of the fork trucks are idle
10 that day?

11 A. Most of them are. Just the ones
12 that -- say you have to pick up a load and get a
13 count on the product, might be mixed up or
14 something like that.

15 Q. You might have to move a load to get
16 to another load --

17 A. Right.

18 Q. -- to inventory that load?

19 A. Right.

20 Q. When did you arrive that day; do you
21 recall what time you started work?

22 A. I started about -- I started at
23 7:00.

24 Q. 7:00 in the morning?

1 A. Yes, and everybody met in the
2 cafeteria.

3 Q. That was your normal starting time
4 that day; is that what time you're supposed to
5 work?

6 A. Yes.

7 Q. How long were you supposed to be
8 there that day?

9 A. I wasn't aware of how long I was
10 going to be there. Usually, sometimes it ends
11 fast. It depends on how things run, you know.
12 If we can get everything out, you know, all the
13 counts and everything, you know, sometimes we can
14 leave early. You know, sometimes we work late.

15 Q. Is there an incentive program for
16 inventory day; is there like incentive pay, or do
17 you get anything extra that you wouldn't normally
18 get?

19 A. Yes. It's like overtime.

20 Q. And when you met in the cafeteria,
21 who met there?

22 A. All the guys working -- majority of
23 them were company personnel, and they were
24 discussing things like, well, pizza. Pizza was a

1 -- my job was over in the coil room, and Ralph
2 came and asked me did I want to work.

3 Q. I understand.

4 A. So I volunteered.

5 Q. I'm just now talking about inventory
6 day.

7 A. I apologize.

8 Q. I'm talking about inventory day.

9 A. Do I work with them people all the
10 time?

11 Q. No, no. The question was, that day,
12 were you assigned to work with Allen -- were you
13 assigned to work with him just that day counting
14 inventory?

15 A. Right.

16 Q. Was there anyone else you were
17 assigned to work about with besides Allen?

18 A. There was another guy there, but I
19 can't say. I want to say Wink. They called this
20 guy Wink, but I don't know. And Jeff might have
21 been there.

22 Q. So your group was assigned to a
23 certain part of the plant to inventory?

24 A. Well, what I was doing was the plate

1 they had in assembly.

2 Q. So it was your responsibility, along
3 with maybe some other folks, to count the plate
4 in the assembly area?

5 A. Right.

6 Q. Where is the plate kept in the
7 assembly area? You mentioned before the
8 restrooms. Where in relation to the restrooms
9 was the plate?

10 A. The plate was... it was kept in an
11 area up front of the body makers. By the body
12 makers, I mean, machinery. They had the plate on
13 the side of them. Say like you had -- this one
14 machine might have ran a certain size plate, then
15 you had another machine might have had a run on
16 another size plate; and all this plate was parked
17 up in the front of the machine. (Indicating.)

18 Q. So if I'm walking out of the
19 restroom, that's in front of me, right?

20 A. If you're walking out of the
21 restroom, you wouldn't see this. (Indicating.)

22 Q. Would I have to walk forward or
23 would I have to --

24 A. This was -- okay. You got a piece

1 A. Right.

2 Q. You then walk back and, presumably
3 with your group of people, you go back to the
4 plate area where the plate is kept, correct?

5 A. Right.

6 Q. And then you start inventorying the
7 plate, correct?

8 A. Right.

9 Q. At what point did you need to use
10 the forklift; was it right away as soon as you
11 got there?

12 A. Well, yeah. It was -- you know, we
13 was supposed to count -- pick up a load, and I
14 didn't want to go and just go ahead and pick up
15 that load and run out of gas.

16 Q. So as soon as you got back there,
17 you saw that you were going to need to use a fork
18 truck, right, as soon as you got back to this
19 area?

20 A. Yeah. I knew we was going to have
21 to use a forklift to move the loads from up --
22 you know, say you got a load stacked on top of
23 loads, and you have to lift them up to count the
24 loads, you know. Sometimes you have to -- you

1 know, you couldn't get to the ticket, you know,
2 on the load.

3 Q. Did you start using the fork truck
4 before you went to go refuel it; did you start
5 using it?

6 A. I started using it, right.

7 Q. So you started using the fork truck
8 to move loads around?

9 A. Right.

10 Q. You were using it for a while, and
11 then noticed that it needed to get refueled?

12 A. There was a red light that comes on
13 that gives you so many seconds before you get to
14 the...

15 Q. Before it stops?

16 A. Yeah, before it cuts off.

17 Q. So you're here with your group of
18 people. Are you the only one using the fork
19 truck that morning or are you taking turns?

20 A. At that time, I was the only one
21 using it, right. Yeah, I guess they had other
22 forklifts there that guys were using.

23 Q. There were other forklifts in this
24 area, too?

1 A. Right.

2 Q. Was Allen using a forklift truck,
3 Allen Artis?

4 A. No.

5 Q. He was working with you --

6 A. He was working with me.

7 Q. So when you first arrived on the
8 scene, did you inspect this fork truck to make
9 sure everything worked when you first got there?

10 A. When I first got there, I wasn't --
11 I wasn't -- this is not an area that I worked in
12 all the time, you know.

13 Q. Right.

14 A. I just more or less, you know, knew
15 we was gonna have to use the forklift, you know.

16 Q. I understand.

17 A. When I got out on the forklift to
18 move the load and the light came on, so I said
19 I'm going to get some gas for the forklift.

20 Q. How long were you using the forklift
21 truck before the light came on?

22 A. We wasn't using it.

23 Q. So it came on right away?

24 A. Right.

1 Q. Did any member of management know
2 that you were going take that fork truck and take
3 it to be refueled?

4 A. No.

5 Q. Did you proceed directly to the fuel
6 storage area?

7 A. Right.

8 Q. You didn't make any stops anywhere?

9 A. No, because if I did, I probably
10 would have been carrying something.

11 Q. Any reason why you went to that
12 particular storage rack as opposed to the one in
13 the coil room or the other ones that were in the
14 plant?

15 A. Because it was closer.

16 Q. And that was your decision, to use
17 the closest one?

18 A. Yes.

19 Q. No one told you to use that
20 particular storage rack to refuel the fork truck?

21 A. Well, it would just be the way that
22 they had the situation where assembly -- that's
23 what assembly used all the time. They didn't go
24 over to the coil room and use ours.

1 A. I'm exactly where she's typing at.

2 Q. You're exactly where the court
3 reporter is?

4 A. Right.

5 Q. And did you at any point do anything
6 between the rack and your fork truck in this
7 area?

8 A. No, other than walk over there and
9 then walk behind the forklift and put the tank
10 on.

11 Q. I guess you took off the old tank
12 first? Is that what you did first?

13 A. Right.

14 Q. Which side are you on; are you on
15 the side closest to the cage or away from the
16 cage or right behind it?

17 A. I'm on this side (indicating).

18 Q. And you take it off?

19 A. Right, and I put the empty tanks on
20 the same rack.

21 Q. And then you take a new tank out,
22 and you start putting the new tank on?

23 A. Right.

24 Q. Had you finished putting the new

1 tank on when you felt the impact?

2 A. No.

3 Q. You were in the process of putting
4 the new tank on?

5 A. Right.

6 Q. How long were you out there, first
7 of all, before you felt the impact? You told me
8 it takes about ten minutes to change the tank.

9 A. I wasn't out there maybe -- because
10 I was -- I'd say no more than about three or four
11 minutes, you know.

12 Q. Someone said they heard that your
13 hat blew off and that you had knelt down to pick
14 up your hat?

15 A. They knocked my hat off my head.
16 You know how somebody snatches your hat off your
17 head? I grabbed for my hat like that
18 (indicating), and my hat flew off my head then.
19 I said, Oh.

20 If I hadn't of grabbed for my hat,
21 he probably would have hit me on my spine because
22 -- I probably would have been paralyzed because
23 the hat was -- you know, I grabbed for the hat,
24 and it flew me out of position. So all he got

1 was my pelvis area, you know, when he broke my
2 pelvis.

3 Q. Before the impact, did you hear his
4 fork truck at all coming up?

5 A. No.

6 Q. Did you see his fork truck at all --

7 A. No.

8 Q. -- either picking up a load or
9 dropping off a load or coming around the corner?

10 A. No.

11 Q. Did you hear the backup alarm?

12 A. No.

13 Q. And his fork truck was pointed away
14 from you, correct, so he would have been backing?

15 A. Right. He was backing.

16 Q. What part of his fork truck struck
17 what part of your body?

18 A. His back end of his forklift.

19 Q. The counter weight part?

20 A. Right, the counter weight pressed me
21 up against my counter weight.

22 Q. Were you standing straight up
23 whenever his fork truck hit you?

24 A. When he jolted me, I went for my